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PTO/SB/33 (07-05)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

086142-0600

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On

Signature

Typed or printed name

Application Number

10/718,543

Filed

11/24/2003

First Named Inventor

Hiroaki FUJII

Art Unit

3616

Examiner

George D. Spisich

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record.

Registration number 39,370

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Signature

Howard N. Shipley
Typed or Printed Name

(202) 672-5582

Telephone Number

July 6, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Atty. Dkt. No. 086142-0600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hiroaki FUJII et al.
Title: SEAT BELT DEVICE
Appl. No.: 10/718,543
Filing Date: 11/24/2003
Examiner: George D. Spisich
Art Unit: 3616
Confirmation Number: 1813

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the Pre-Appeal Brief Conference Pilot Program, announced July 11, 2005, this Pre-Appeal Brief Request is being filed together with a Notice of Appeal.

REMARKS

The Examiner has indicated that the Amendment filed June 7, 2007 will be entered for the purposes of appeal. (See Advisory Action mailed June 25, 2007). Thus, consideration of claims 1-4 and 6-7 is requested.

Claim 1 is provisionally rejected as being unpatentable over claims 1, 5, 6, and 10-12 of co-pending U.S. Patent Application No. 10/873,129. No action is required until either the current application or co-pending U.S. Patent Application No. 10/873,129 is allowed.

Prior Art Rejection

Claims 1, 3, 4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,667,980 ("Yamamoto") in view of U.S. Patent No. 4,667,980 ("Aoki"). The rejection should be withdrawn at least because the references (alone or in combination) fail to disclose, teach or suggest the claimed recitations.

Claim 1 calls for a seat belt device that comprises, among other things, "a hitch member [that] is attached to either one of said vehicle seat fixed to the vehicle body or said seat weight sensor fixed to the vehicle body, the hitch member being immovable." Claim 4 calls for a seat belt device that comprises, among other things, a hitch member that "comprises an immovable slide bar." Yamamoto and Aoki, taken together or separately, fail to disclose, teach, or suggest such a seat belt device as called for by claims 1 and 4.

According to the Examiner, Yamamoto discloses an immovable hitch member (40). The Examiner contends that the hitch member of Yamamoto is "immovable" since the hitch member is immovably attached to the seat and is immovable with respect to the seat. (Office Action at pp. 5 and 7).

However, element 40 refers to a movable guide rail. The guide rail (40), "is made movable on a slide base 80 by a bracket 78." (Yamamoto at col. 3, lines 7-14). Figure 5 of Yamamoto illustrates the guide rail (40) moving. The term "immovable" is defined as "impossible to move" and "incapable of movement." (The American Heritage[®] Dictionary of the English Language: Fourth Edition (2000)). Thus, if the guide rail (40) of Yamamoto is capable of movement, then the guide rail cannot be "immovable." Aoki fails to cure the deficiencies of Yamamoto. Thus, the rejection is improper. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 3, 6, and 7 depend from claim 1 or claim 4 and are allowable therewith, for at least the reasons set forth above, without regard to the further patentable subject matter set forth in these dependent claims.

Serial No. 10/718,543

Atty. Dkt. No. 086142-0600

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance.

Respectfully submitted,

Date 7/6/2007

By HA Shipley

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5582
Facsimile: (202) 672-5399

Howard N. Shipley
Attorney for Applicant
Registration No. 39,370